



BROADBANDUSA
CONNECTING AMERICA'S COMMUNITIES

Environmental Special Award Conditions: Compliance and Removal

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Common Environmental Special Award Conditions (SACs)

- An environmental assessment (EA) in compliance with the National Environmental Policy Act (NEPA).
- Consultation with the State Historic Preservation Office (SHPO) and with the appropriate federally recognized Native American tribes, as required under Section 106 of the National Historic Preservation Act (NHPA).
- Consultation with the U.S. Fish and Wildlife Service (USFWS) under Section 7 of the Endangered Species Act.

Environmental Assessments and all Consultations must be completed no later than six months after the award date unless a formal request for extension is submitted and approved by the Grants Officer.





Meeting this timeframe requires:

- 1) Coordination with your Federal Program Officer.
 - Understand the SACs and the Removal Requirements.
 - Understand the schedule required to succeed – the clock starts running at award.
- 2) Coordination with the Department of Commerce NEPA and NHPA team.
 - Submit an accurate and detailed project description with supporting maps (USGS 7.5 minute quad maps) showing the exact location(s) of your project activities.
 - Obtain professional assistance (Environmental and Historic Preservation) to develop the EA and complete the Section 106 consultation.
- 3) Timely follow-up with relevant resource agencies and tribes to complete any required studies.
- 4) Completion of all consultations and submittal of documentation on time.





Most Important

- Review and understand the BTOP guidance developed to ensure your success, available on the website:
 - <http://www2.ntia.doc.gov/compliance#environmental>





Consultants, Consultants, Consultants

- Qualified consultants should be able to help you understand your requirements under NEPA and NHPA.
- Consultants should identify other state, federal or local environmental regulatory requirements and issues related to your project, such as floodplain issues (FEMA), brownfields (EPA or state DEQ), CZM (state office), Federal lands (BLM, Forest Service, National Park Service).
- Consultants **MUST** understand your schedule and the compliance role that NTIA has granted to recipients of BTOP grants in Section 106 and other consultations.





Immediate Recipient Responsibilities

- Contact the SHPO, USFWS and USACE as early as possible after receiving your grant award (the six month countdown starts with the announcement) to discuss their requirements.
- Formally follow up immediately after receiving the SHPO initiation letter sent by NTIA to determine necessary next steps.
- Do not wait to contact your USFWS local office to initiate consultation. NTIA will send a letter, but it is your responsibility to contact USFWS.





Consultation with State Historic Preservation Offices

- NTIA sends an initiation letter, but grant recipients must follow up by contacting their SHPO immediately thereafter.
- SHPOs in each state of your project must be consulted.
- SHPO offices can take 30 days to respond any letter.
- SHPOs will typically ask for more information such as Cultural Resources Surveys, which can include Archeological Surveys and/or Surveys of Historic Places and Sites (Architectural).
- Not all projects (or all SHPOs) require this additional effort, but they may and you should be aware it will delay the completion of your consultation.





Consultation with State Historic Preservation Offices (cont'd)

- Section 106 compliance ensures that federally funded projects **TAKE HISTORIC PRESERVATION INTO ACCOUNT** to prevent or mitigate **ADVERSE EFFECTS** on properties **ELIGIBLE** for the National Register of Historic Places.
- Make sure that SHPOs and historic preservation consultants **UNDERSTAND THE TRUE POTENTIAL** of your activities to affect historic properties.
- Broadband installed over existing power lines has no potential to affect historic properties and does not need to be considered.
- Communication facilities licensed by the FCC will have an alternate Section 106 review process.
- Native American tribes may request to participate in the consultation; NTIA will let you know if this happens.





More About the SHPO

- Once you determine the area in which historic properties might be affected, a (36 CFR Part 61) qualified consultant must identify/evaluate cultural resources.
- Only National Register of Historic Places (NRHP) eligible properties are considered.
- On behalf of NTIA, your consultant should determine the effect of the project on the NRHP eligible historic properties identified.
- SHPO must concur on the project's effect to conclude the consultation.
- If historic properties may be affected by your project, NTIA strongly encourages AVOIDANCE.
- If AVOIDANCE is not possible, adverse effects must be mitigated through a Memorandum of Agreement among you, NTIA, the SHPO and interested parties.





Tribal Consultation

- NTIA is using the FCC's Tower Construction Notification System (TCNS) for all BTOP-funded NTIA construction projects (whether or not they have towers) in order to satisfy Section 106 consultation requirements and respect Government to Government sanctity.
- The TCNS Process:
 - All 565 Federally recognized tribes are part of the notification system.
 - Each tribe has designated a specific geographic area of interest which includes tribal lands as well as ancestral lands.
 - Notifications are sent out once you provide us with updated project information, as we initiate SHPO contact.
 - If we receive a response back from the tribes indicating interest, we confirm their willingness to communicate directly with recipients, and work to address their concern.





Environmental Assessment Guidance

- Do not waste energy or resources describing and analyzing resource areas that are not impacted or only minimally impacted by your project .
 - Example: Hanging fiber optic cable on poles will not have impacts to air quality, or noise pollution beyond the temporary nature of the equipment used to install the fiber.
- The EA Guidance for BTOP Award Recipients is available on the BTOP website.
 - http://www2.ntia.doc.gov/files/btop_environmental_assessment_guidance_08_24_2010_v1_4.pdf





Lessons Learned: Environmental Assessments

- **Alternatives Discussion:** Remember to consider the three methods for broadband infrastructure:
 - Aerial
 - Underground
 - Wireless (all are alternatives to be considered)
- **Health and Safety Issues:** Please consider worker safety issues and measures to address these concerns, as well as public safety for work on busy roadways.
- You are encouraged to complete all consultations before submitting a draft EA.
 - Awaiting final responses can delay the finalization of your EA





Other Lessons Learned

- Determine whether your project team has assets to ensure your success (Local Historic Preservation Planner, cooperative relationships with resource agencies, partnerships with tribes).
- Hire reputable/qualified consultants as soon as possible.
- Firms with experience conducting relevant consultations and writing EAs under NEPA are assets to your project.
- Develop an accurate and concise Environmental Assessment.
- Understand and manage the Historic/Cultural Resources, FWS, and other consultations required to timely complete your EA.





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